

*Editor*  
DWIGHT L. WILBUR, M.D.

*Assistant to the Editor*  
ROBERT F. EDWARDS

For information on preparation of  
manuscript, see advertising page 2

*Policy Committee—Editorial Board*

JAMES C. MACLAGGAN, M.D., San Diego  
JOHN G. MORRISON, M.D., San Leandro  
WILLIAM F. QUINN, M.D., Los Angeles  
JOSEPH W. TELFORD, M.D., San Diego  
CARL E. ANDERSON, M.D., Santa Rosa  
HELEN B. WEYRAUCH, M.D.  
San Francisco  
DWIGHT L. WILBUR, M.D., San Francisco

## EDITORIAL

### The Rubella Nightmare

THAT RUBELLA (German measles) in early pregnancy damages the fetus was first brought to the attention of the medical profession in 1941 by the Australian ophthalmologist Norman Gregg,<sup>2</sup> who showed it to be a prolific cause of blindness, mainly from cataracts, as well as of congenital malformation of the heart. Swan,<sup>6</sup> another Australian, soon amplified the list of fatal injuries by noting deafness, deafmutism, microcephaly with mental deficiency, and physical underdevelopment. The danger period in fetal life was then defined as the first trimester, and it was tacitly assumed that after this time infection of the fetus subsided. The American pandemic of 1964-65 with its estimated 2,500,000 cases and 20,000 damaged infants told a different story and brought into light what is now known as the rubella syndrome.<sup>5</sup> Infection in the fetus (which included the placenta) was found to last not only through the rest of fetal life but, in surviving infants, for many months after birth. About 29 per cent of such infants died at or soon after birth. A hitherto unrecognized symptom complex emerged: thrombocytopenic purpura, jaundice, enlarged liver with hepatitis and enlarged spleen, areas of bone rarefaction, myocarditis, encephalitis and glaucoma were added to the previously well known complications. The continuance of active infections made these infants virus carriers who were a menace to other infants in the nursery, to nurses, to physicians and, indeed to any other persons, including pregnant women, with whom they might come in contact. In general ru-

bella has been shown to have approximately 50 per cent communicability on direct exposure.

It has been shown that more than one pregnant woman in six is susceptible to rubella. One well documented clinical study showed the risk of fetal defects from rubella to have been 47 per cent during the first month of pregnancy, 22 per cent in the second and 7 per cent in the third. Another study<sup>7</sup> based on histological examination in cases of therapeutic abortion performed for rubella during the first four weeks showed that 80 per cent of the products of conception were affected. To the estimates of defects manifest at birth must be added an increment estimated at 50 per cent for defects discovered later, notably deafness which may not be discovered and properly dealt with until the school years. As early as 1962, before the "rubella syndrome" was recognized, Ingalls<sup>3</sup> in discussing maternal rubella in the first trimester stated that "the risks are simply unacceptable."

Through the daily press and such popular periodicals as *Life* and *Reader's Digest* the public has become well informed of the rubella problem and there are few women who have rubella or are even exposed to infection during the early stages of pregnancy who are unaware of the risks involved. Such women face six to nine months of anxiety, often agonizing, unless the pregnancy is terminated spontaneously or therapeutically. The chances that Nature will lend a helping hand by means of spontaneous abortion or stillbirth are, according to recent study, almost negligible.

This brings up the problem of therapeutic abortion. The California statute, which dates from 1872, explicitly states that the only exception to criminal liability for the therapeutic abortion is when "the same is necessary to preserve her [the mother's] life"; but places the burden of proof for

nonnecessity on the State. The assumed rigidity of this law and its obstruction to the best medical practice have been long evident, particularly in the cases of incest, rape and various serious, while not immediately life-threatening, disorders of pregnant women; but it was not until the recognition and general awareness of the hazards of rubella (and more recently of thalidomide) to the fetus which we have recounted, that the necessity of modernizing the statute has become urgent. The House of Delegates of the California Medical Association has officially recommended changes to the California Legislature on three occasions, in 1962, 1963 and 1966. The latest of these recommendations, adopted at the March 1966 meeting, reads as follows: Whereas, resolutions were adopted in 1962 and 1963 (30-62, 37-62, 94-63) supporting the concept of medically justifiable abortion in this state; now, therefore, be it

Resolved: That this House reaffirm its position and express to the State Legislature its belief in the broadening of the therapeutic abortion law, taking into consideration the health of both the mother and the product of conception; and be it further

Resolved: That such legislation should provide proper medical control through established hospital staffs or component medical society committees.

On 6 June 1966 the Board of Directors of the San Francisco Medical Society approved the resolution of the House of Delegates of the CMA and added:

"That the Board of Directors of the San Francisco Medical Society believes that it is an acceptable standard of medical practice in this community to perform therapeutic abortions in accredited hospitals in cases of proven rubella, with therapeutic abortion committee approval."

Meanwhile, two obstetricians of high professional and ethical standing, after official sanctions by the appropriate committee of their respective, fully accredited hospitals, performed abortions on patients who had had rubella during early pregnancy, and publicly reported their actions. For this they have been required to appear before the Board of Medical Examiners, which has the power to convict them of unprofessional conduct and revoke their licenses to practice. At the moment of writing, the California State Supreme Court has issued a delay. Apart from the legal aspect of the case, the strictly medical—and humanitarian—

indications for abortion seem clear beyond argument, and the need for revision of the law seems impelling. Medical men with an interest in the legal aspects of the problem have read with much interest England's closely related Bourne<sup>1</sup> case in which a physician of the highest professional repute, after consultation with other assenting physicians, performed in a hospital of high standing an abortion on a 14-year-old girl who had been raped in atrocious circumstances, and reported his action to the authorities in the hope of obtaining a modification or reinterpretation of the English law on abortion dated 1861 which allows no exceptions and carries a penalty of penal servitude. After full review the court decided in favor of the physician by liberalizing the interpretation of the law. The court stated that "... if the doctor is of opinion, on reasonable grounds and with adequate knowledge, that the probable consequence of the continuance of pregnancy will be to make the woman a physical or mental wreck, the jury are quite entitled to take the view that the doctor, who, in those circumstances, and in that honest belief, operates, is operating for the purpose of preserving the life of the woman." The court made a sharp distinction between such a procedure and criminal abortion.

That ruling in the Bourne case was made in 1938.

In 1955 a conference on abortion was held at the New York Academy of Medicine<sup>4</sup> in which the subject was dealt with at great length and with authority. From this report we quote a statement by Dr. Milton Helpert, Chief Medical Examiner of New York City. (The New York State law on abortion was essentially the same as that in California but put the burden of proof on the defendant.) Dr. Helpert said: "I don't know of a single instance in which an abortion done in an approved hospital, presumably for therapeutic purposes, was ever questioned by the courts. The only cases that I am sure of that are prosecuted are frank criminal abortions."

Finally, we quote a statement by Richard Cardinal Cushing of Boston, cited in a recent issue of the *Reader's Digest*: "Catholics . . . do not need the support of civil law to be faithful to their own religious convictions, and they do not seek to impose by law their moral views on other members of society."

*Addendum.* As this was being written an Associated Press Dispatch from London in the San

Francisco *Chronicle* dated 23 July 1966 said: "The House of Commons voted overwhelmingly yesterday in favor of a law legalizing abortions where justified by medical advice. . . . The terms of the legislation authorize an abortion where two doctors decide it is necessary for the health of the mother or where there is substantial risk of a child being born deformed. . . . Home Secretary Roy Jenkins . . . told the House there are about 100,000 illegal abortions performed annually in Britain, with the present rigid law unable to cope with the problem."

HAROLD K. FABER, M.D.  
The Institute of Medical Sciences  
Presbyterian Medical Center  
San Francisco

26 July 1966.

*Editor's Note:* Dr. Faber was for many years professor and head of the Department of Pediatrics at Stanford University School of Medicine. A

distinguished pediatrician, he is recognized the world over for his clinical and experimental work in viral diseases.

#### REFERENCES

1. Calderone, Mary S. (Editor): *Abortion in the United States*, Paul B. Hoeber, Inc. and Harper and Bros., New York, 1958: The Bourne Case, pp. 193-195.
2. Gregg, N. McA.: Congenital cataract following German measles, *Trans. Ophth. Soc., Australia*, 3:35, 1941.
3. Ingalls, T. H.: German measles and German measles during pregnancy, *Am. J. Dis. Child.*, 93:555, May 1957.
4. *Reader's Digest*, May 1966, p. 235.
5. Rubella symposium (20 papers): *Am. J. Dis. Child.*, 110:345-476, October 1965.
6. Swan, C., Tostevin, A. L., et al.: Congenital defects in infants following infectious diseases during pregnancy, with special reference to relationship between German measles and cataract, deafmutism, heart disease and microcephaly, and to the period of pregnancy in which occurrence of rubella is followed by congenital abnormalities, *Med. J. Australia*, 2:201, 1943.
7. Töndury, G., and Smith, D. W.: Fetal rubella pathology, *J. Pediat.*, 68:867, June 1966.

